

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

COREY DAY

v.

C.A. NO. 08-161 ML

ASHBEL T. WALL, et al.

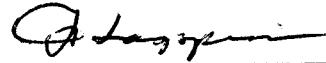
REPORT AND RECOMMENDATION

Jacob Hagopian, Senior United States Magistrate Judge

Plaintiff, *pro se*, is an inmate in the custody of the Rhode Island Department of Corrections in Cranston, Rhode Island. On May 2, 2008, plaintiff filed a complaint with the Court alleging that he is a Muslim and the named defendants were violating his civil rights by actions including: (i) refusing to serve meals in accordance with the dictates of Islam; (ii) obstructing the performance of his daily prayer; (iii) harassing him because he is Muslim; and (iv) prohibiting him from wearing skull caps as required by Islam (Docket # 1). Presently before the Court is plaintiff's motion for judgment by default (Docket # 11). This matter has been referred to me for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B).

Plaintiff filed a motion for judgment by default against defendants pursuant to Federal Rule 55 for failing to respond to his request for waiver of service of process. Defendants are not required to waive service of process. Fed.R.Civ.P. 4(d). Additionally, a few days prior to plaintiff's motion for judgment by default being filed with the Court, defendants filed an answer to plaintiff's complaint (Docket # 10). Accordingly, as defendants are actively defending against this action, I recommend that plaintiff's motion for judgment by default be **DENIED** at this time.

Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of Court within ten days of its receipt. Fed.R.Civ.P. 72(b); LR Cv 72(d). Failure to file timely, specific objections to this report constitutes waiver of both the right to review by the district court and the right to appeal the district court's decision. *United States v. Valencia-Copete*, 792 F.2d 4 (1st Cir. 1986) (*per curiam*); *Park Motor Mart, Inc. v. Ford Motor Co.*, 616 F.2d 603 (1st Cir. 1980).



Jacob Hagopian
Senior United States Magistrate Judge
Date: